IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 1447/2006
(Kanwar Singh Vs. State of Rajasthan & Ors.)

Date of Order : 24.08.2007

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. Niranjan Singh for the petitioner.
Mr. V.R.Mehta, P.P.
None present for the respondents No.2 to 5.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 06.8.2004 passed by Additional Sessions Judge, No.1, Jodhpur (for short 'the revisional court' hereinafter) whereby the revision petition filed by respondents against the order dated 12.4.2004 passed by Additional Chief Judicial Magistrate No.7, Jodhpur (for short 'the trial court' hereinafter) was allowed and the order of the trial court was set aside and the respondents No.2 to 5 were discharged of the offences under Sections 406, 467, 468, 471 and 420 IPC.

I have heard learned counsel for the parties present. Carefully gone through the order of the trial court as also the order of the revisional court.

From the order passed by the trial court it is clear

that the trial court at the time of hearing of the arguments on charge noticed that prima-facie offences under Sections 406, 467, 468, 471 and 420 IPC are made out against respondents No. 2 to 5 and therefore, took the cognizance and issued the process. It clearly appears that no charge has been framed against respondents No.2 to 5. Even respondents No.3 to 5 did not appear and there was no occasion for framing charge in their absence. In the circumstances therefore, respondents prematurely challenged the order before the revisional court. The revisional court noticing that even the charge has not been framed, set aside the order and discharged the accused persons, whereas respondents No.3 to 5 were not even appeared before the trial court in pursuance of the process issued. In this view of the matter, the order passed by the revisional court is per-se illegal and deserves to be set aside.

Consequently, the petition is allowed. The order impugned dated 06.8.2004 is set aside. The matter is remanded to the trial court to hear the parties and proceed with the case from the stage of the order dated 12.4.2004 and decide the matter in accordance with law. Record of the trial court be returned forthwith.

(H.R.PANWAR),J.

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